TAX PAPER 2

(Topic covered: - Business and Profession Head)

Time Allowed: - 3 hours **M. M. 100**

NOTE: - All the references to the sections mentioned in the paper relates to Income Tax Act, 1961 and relevant Assessment Year is 2011-12, unless otherwise stated. All questions are compulsory.

Ques. 1: - Section 43B has no relevance in the case where an assessee maintains the books of accounts on cash method of accounting. Elaborate. (4 marks)

Ques. 2: - Depreciation is allowed only when asset is in actual use of the business else not. Discuss. (5 marks)

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Ques. 3: - In case where assessee is maintaining the actual books of accounts and profit as per actual books is higher than the rate given under the various presumptive taxation scheme, in such cases the assessee is duty bound to pay tax on such higher income, as the actual income is higher. (5 marks)

Ques. 4: - Discuss on the following issue's: -

a) Waiver of a loan is not the remission and cessation of trading liability and but the waiver of CC overdue is a part of remission and cessation of trading liability and thus same shall be chargeable to tax. (5 marks)

b) CSR expenditure shall be allowed as deduction u/s 37 irrespective of the fact that the said expenditure is capital or revenue in the nature. (5 marks)

c) Lottery and prize winnings are always and always the part of casual income. (5 marks)

d) A liability towards expenditure as per agreement was provided in the books. However disputed for payment, before a Court of law on interpretation of clauses of the agreement. Can it be claimed in the year of provision? (3 marks)

Ques. 5: - The net profit for the year ended on 31.3.2012 of India Recyclers LLP. engaged in the business of collecting and recycling of bio-degradable waste works out at Rs.45 lacs after debit /credit of the following items:

- Profit of Rs.2,50,000 from a hedging contract entered into for meeting out the loss in foreign currency payments towards an imported machinery of Rs.80 lacs installed on 1.2.2011.
- Incidental charges of Rs.20 lacs paid to a financial institution for taking short-term loan of Rs.25 crores repayable in 18 months.
- Commission of Rs.25,000 paid to a recovery agent for getting realisation of an old outstanding.
- Registration fees of Rs.20,000 paid to the Registrar of Companies, on the further introduction of new partner Jhonny.
- Amount of Rs.1,00,000 towards carry forward losses for As. Y. 02-03 of India Recyclers Ltd. (A closely held com), which got converted into LLP during the financial year 2009-10.
- Interest received from banks of Rs.90,000 net of TDS of Rs.10,000.
- Amount of Rs.1,50,000 incurred towards reconditioning of generator.
- Employees share to the EPF for the month of March, 2012 of Rs.40,000. The amount was deposited with the PF Commissioner on 22-4-2012.
- The LLP has not yet provided the provision of Interest and remuneration to the partners. Capital contributed by three partners Josheph, John, Jhonny was Rs. 12 lacs, 38 lacs and 50 lacs respectively and the PSR is 1:4:5. But the salary is drawn by them and provided in the deed in the ratio of 5:4:1.

The LLP is into its 3rd year of operations. Compute the total income and tax thereon of the LLP for As. Y. 2012-13 and give brief reasons for the treatment given to each of the items. (15 marks)

Ques. 6: - Deferred Tax Liability created as per the AS-22 is an allowed as business deduction whereas the Deferred Tax Asset so created forms the part of the business income and thus is chargeable to tax. Elucidate. (8 marks)

Ques. 7: - As per Section 14A and rule 8DD, where an expenditure which is incurred for receiving an exempt income shall not be allowed as deduction, but where the exempt income is an incidental income and the main motive is to earn the taxable income, then in such cases the same shall not be applicable. Justify? (5 marks)

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Ques. 8: - T and Q are individuals, who constitute an Association of persons, sharing profit and losses in the ratio of 2:1. For the accounting year ended 31st March, 2012, the Profit and Loss account of the business was as under:

Figures are in Rs. '000s

Cost of goods sold	4,250	Sales	4,900
Remuneration to:		Dividend from companies	25
T	130	Capital gains-Long term	640
Q	170		
Employees	256		
Interest to:			
T	48.3		
Q	35.7		
Other expenses	111.7		
Sales-tax penalty due	39		
Net profit	524.3		
	5,565		5,565

Additional information furnished:

(i) Other expenses included:
  (a) entertainment expenses of Rs.35,000;
  (b) wristwatches costing Rs.2,500 each were given to 12 dealers, who had exceeded the sales quota prescribed under a sales promotion scheme;
  (c) employer's contribution of Rs.6,000 to the Provident Fund was paid on 14th January, 2013.
  (d) Rs.30,000 was paid in cash to an advertising agency for publicity.

(ii) Outstanding sales tax penalty was paid on 15th October, 2011. The penalty was imposed by the Sales-tax Officer for non-filing of returns and statements by the due dates.

T and Q had, for this year, income from other sources of Rs.94,000 and Rs.32,000 respectively.

Required to:

(i) Compute the total income of the AOP for the assessment year 2012-12;
(ii) Ascertain the tax liability of the Association for that year; and
(iii) Ascertain the tax liability for that year of the individual members. (8 marks)

Ques. 9: - Discuss the allowability of the commission with respect to the secret commission paid to the various franchise agents. (3 marks)

Ques. 10: - A company engaged in textile manufacturing, debited to its Profit & Loss Account a sum of Rs.60,000, being the interest on loan of Rs.6,00,000 taken for financing its expansion scheme. The plant and machinery purchased for the project with the loan were not received during the year and those were still in transit at the end of the year. A sum of Rs.6,000 was paid to a broker who arranged the loan. Discuss the admissibility or otherwise of the interest on borrowing. (3 marks)

Ques. 11: - Explain the incidence of taxation on the mutual concerns. (6 marks)

Ques. 12: - Ravi succeeded to his father's business in the year 1998. In the previous year ending 31.3.2001, Ravi has written off the balance in the name of `Y' which relates to supply made by his father, when he carried on business. Ravi desires to know whether the write off could be eligible for deduction. (3 marks)

Ques. 13: - By virtue of an agreement entered into on 1.9.2011 between X Ltd. and Y Ltd., X Ltd. agrees not to carry on any business relating to computer software in India for the next 3 years, for which Y Ltd. agrees to pay a sum of Rs.12,00,000 to X Ltd. The said amount was paid on 1st January, 2012. Indicate treatment of such receipt in the hands of X Ltd. for the assessment year 2012-13? (4 marks)

Ques. 14: - Goodwill of only business can be purchased and sold and the purchaser of the goodwill shall be entitled to claim depreciation in respect of the same. But goodwill of profession has indeterminate value and neither it can be brought nor can it be sold. Justify the correctness of the statement? (5 marks)

Ques. 15: - The scope of the Investment linked tax incentive scheme has been increased and also the losses of the same are now being entitled to be set off against the loss of any business. Comment. (8 marks)

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